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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,685	03/05/2002	Alfred Thomas	2100/24	8496
7590	08/01/2005		EXAMINER	
Michael H. Baniak BANIAK PINE & GANNON 150 N. Wacker Drive, Suite 1200 Chicago, IL 60201			MENDIRATTA, VISHU K	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/090,685

Applicant(s)

THOMAS ET AL.

Examiner

Vishu K. Mendiratta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-48 and 50-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-48 and 50-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 25-48,50-52 rejected under 35 U.S.C. 102(e) as being anticipate by Tarantino (6702671).

Tarantino teaches a game display (1920), an operating system (Fig.5), processor (103), memory (605), video section (621), pay table (abstract), wagering input device (0 bet per line button), payout device (collect button), player selecting game element locations (13:53-60) less than all locations, each location capable of displaying reel like configuration with plurality of indicia (dice faces), determining payout on the basis of winning condition and matching number of locations (11:44-55), paying increasing award units (11:25-65), and a hierarchy of symbols, matching subsets of indicia (4:1-5) are also well known in the slot machine industry.

Claim Rejections - 35 USC § 103

3. Claims 25-48,50-52 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Simunek (5401024).

Simunek teaches a game display (20), an operating system (Fig.1), processor (16), memory (14), video section (18), pay table (2:52-54), wagering input device (bet1

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button), payout device (win button), player selecting game element locations (3:46-47) less than all locations, each location capable of displaying reel like configuration with plurality of indicia (3:1-6), determining payout on the basis of winning condition and matching number of locations (4:1-34), paying increasing award units (2:55-64), a hierarchy of symbols (4:8-15), matching subsets of indicia (4:1-5) that is also well known in the slot machine industry.

Applicant might argue that all selected locations do not display reel action due to random selection of locations by the machine immediately after a player has made selection. Examiner takes the position that due to the fact that the machine is capable of selecting randomly "some or all" locations (3:52) indicates at possibility of selecting "all" spots by the machine. In such case all player-selected locations will turn into reel like locations displaying any one of all symbols on the reel.

One of ordinary skill in art at the time the invention was made would have suggested spinning all player-selected locations simplifying the game.

4. Claims 37-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Simunek in view of Tarantino (6702671).

Simunek teaches all limitations except that it does not clearly express a spatial arrangement of winning symbols.

Tarantino teaches a spatial arrangement of vertical, horizontal and diagonal as winning conditions. Winning conditions are determined by gaming institutions and payouts are determined according to their revenue situations (Simunek 4:23-26). In order to attract players gaming houses present various winning conditions/combinations while also

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keeping the game revenue in focus. Slot machine are well known to pay for matching horizontal lines. One of ordinary skill in art at the time the invention was made would have suggested various conditions and combinations of matching symbols and arrangements to attract players and to keep the game revenue flowing.

1. Claim 44-46 rejected under 35 U.S.C. 103(a) as being unpatentable over Simunek in view of Tarantino (6702671).

Simunek teaches all limitations except that it does not teach increasing wager per increasing bet locations.

Tarantino teaches allowing players to select a larger number of locations for a larger betting amount (9:40-55). A larger selection is related to a larger reward (13:1-5). In order to make the game interesting, it would have been obvious to increase the award for a larger selection of locations.

One of ordinary skill in art at the time the invention was made would have suggested increasing award for larger selections to make the game attractive.

Response to Arguments

2. Examiner regrets the inadvertent overlooking of the Tarantino date while making the 102 (a) rejection. Examiner acknowledges with appreciation the response from the applicant based on 102 (e) and corrects the basis in the current office action.

However applicant's arguments filed 5/19/05 with respect to claims rejection under 35 USC 103 (e) in page 9 have been fully considered but they are not persuasive.

Tarantino also teaches a player selecting multiple locations. This is clearly demonstrated in 9:41-61, wherein a player can choose to select one through nine

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columns by placing a total of five bets. Because there are multiple element locations in each column, even if a player selects the first column only he would have selected multiple locations. Further 9:54-61 demonstrates an embodiment for selecting all nine columns by betting maximum and "not by successive or sequential plays".

3. Applicant's arguments filed 5/19/05 with respect to 35 USC 103 (a) in page 11 have been fully considered but they are not persuasive. On page 11 the applicant appears to argue that the invention is about randomly selecting of indicia at the player-selected spots. Examiner takes the position that the cited reference Simunek also randomly selects the indicia at the player-selected spots. The examiner's position in office action p.3 perhaps did not come out very clear and being clarified as follows: Applicant may firstly note that Simunek clearly teaches an embodiment (1:47-50) in which all spots are replaced with reel like elements. Now in Simunek a player selects up to 10 reels (3:46-47) and then the machine selects 20 reels out of 80 to spin for randomly selecting symbols. This is where the examiner found the explanation was necessary. It appears that, in the applicant's invention after the player has selected locations, the "entire population of reels" start to spin unlike "20 of 80 reels" randomly selected in Simunek. (So there is a possibility that the random picking of 20 reels might not pick all 10 reels that were selected by the player.) On the other hand because the machine randomly picks locations to spin, it is entirely possible that all 10 locations may be picked. In that "player selected spots" which are then spun will ultimately have winning (e.g., matching) indicia.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K. Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vishu K Mendiratta
Primary Examiner
Art Unit 3711

VKM
July 26, 2005